

ITG News  
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#### Message from the Director

The Internal Revenue Service and the United South and Eastern Tribes (USET) recently issued a joint press release confirming our commitment to working in partnership to address federal tax administration issues for their 24 member tribes. The occasion of this release was a meeting between Brian Patterson, the new USET President, and Steve Miller, the Commissioner of the Tax Exempt Government Entities Division of the IRS, which includes the office of Indian Tribal Governments (ITG).

I am extremely proud of the relationship that has evolved between USET and ITG. USET has been in the forefront in surfacing concerns and helping to develop and implement solutions to federal tax administration issues. ITG has been invited to attend every USET meeting during our 7 year existence, and the dialogue that has occurred at those meetings has helped both parties better understand the issues facing Indian country. Although we recognize that we will never agree on every issue, we respect each other's position and commit to a continuing dialogue in the hope that resolution may eventually occur on all issues.

I am often asked by other tribal organizations how we developed such a strong working relationship with USET. There is one simple answer..."they invited us to the table, and we accepted."

I wish that we had a similar relationship with all tribal organizations that share an interest in discussing issues involving federal tax administration or Bank Secrecy Act matters. While we will be continuing our Consultation Listening meetings, those opportunities cannot replace the benefits of an ongoing joint dialogue that can exist through the regular discussions with regional groups.

I want to openly invite all tribal organizations to consider including ITG in your regular meetings where issues concerning federal taxation, economic development, gaming regulation, or similar items may be on the agenda. We are committed to participating in the dialogue, assisting in resolving questions, and ensuring that your concerns are heard. As always, please feel free to contact me at 720-956-4504 or [christie.jacobs@irs.gov](mailto:christie.jacobs@irs.gov).

Christie Jacobs

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#### Consultation Listening Meeting Scheduled for Reno

In accordance with the Consultation procedures utilized by the Internal Revenue Service, ITG holds Consultation Listening meetings on a rotating basis throughout Indian country. The meetings are open to any tribal representatives and provide an opportunity to surface concerns, ask questions, provide input and suggestions to ITG, and dialogue with other tribal representatives concerning federal tax issues. Our objective is to hold a meeting within each of the 12 BIA regions at least once every three years.

Our next meeting has been scheduled for Reno, Nevada on Tuesday, April 24th. The meeting will be held from 9:30am-Noon at:  
Courtyard by Marriott  
6855 South Virginia Street  
Reno, Nevada 89511

In order that we can adequately plan for the meeting, we ask that those wishing to attend register for the meeting through a link on our web site at [www.irs.gov/tribes](http://www.irs.gov/tribes).

We plan to hold two additional meetings during the current fiscal year—Minnesota in June and Oklahoma in August. The specific dates, times, and locations for those meetings will be announced on our web site and via direct mailings to the tribes in those areas.

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## Beware of Bogus Issuance Requesting Form W-8 BEN

We want to express our appreciation to the tribes who surfaced the recent scam involving a bogus letter soliciting Forms W-8 BEN from tribes and tribal members. Thanks to the quick action of those tribes, we were able to issue an alert to all of Indian country and were also able to mitigate any potential damage that might have occurred by this scheme, which amounts to little more than an attempt at identity theft.

Although the individuals attempting to perpetrate this scam are continuing their efforts and are making changes to the scheme by changing fax submission numbers or e-mail response addresses, the joint action by tribes and ITG has helped protect the assets of tribal members.

If you are unaware of this scheme, we ask that you be on the lookout for any letter, fax, or e-mail communication that appears to be from the IRS informing you that you are non-resident aliens and are exempt from federal taxation. The information in the letter, fax, or e-mail is not only incorrect, but the letter itself is bogus.

This letter is not from the Internal Revenue Service, and you should not follow any of the instructions contained within the letter, nor complete or submit the form that is attached to it. The letter is a scam being perpetrated to attempt to secure financial information from unsuspecting individuals. In addition, the attachment to the letter is not a legitimate Form W-8 BEN as evidenced by numerous typographic errors, including referring to our country as the "United State" of America. The fax number does not belong to the IRS, and all IRS e-mail addresses end in the suffix "@irs.gov", which is not the suffix used in the e-mail address in the letter.

We cannot overemphasize the importance of this matter. Please take all reasonable steps to ensure your tribal members are not victimized by this scam.

If you have any questions, please contact Indian Tribal Governments Manager Kenneth Voght via phone at 716-686-4860 or via e-mail at [tege.itg,schemes@irs.gov](mailto:tege.itg,schemes@irs.gov).

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## Tax Provisions Benefiting Indian Country Extended by Congress

As the recent Congressional session drew to a close, Congress authorized the extensions of the Indian Employment Tax Credit and the Accelerated Depreciation rules for business property located on Indian reservations. Although these are both income tax benefits for businesses, and thus of minimal direct benefit to tribes, they are important tools that can be used for economic development and job creation for tribal members.

The Indian Employment Tax Credit was originally created under the Omnibus Budget Reconciliation Act of 1993. The provision created a business tax credit for the employer of qualified employees that work and live on or near an Indian reservation. The credit is for wages and health insurance costs paid to qualified employees (up to \$20,000) in the current year over the amount paid in 1993. Wages for which the work opportunity tax credit is available are not qualified wages for the Indian employment tax credit. The Indian employment tax credit had expired on December 31, 2005. However, the recent Congressional action extended the credit for two additional years (through the end of 2007).

Congress also extended the special rules allowing for accelerated depreciation of business property located on Indian reservations. The original law allowed a special depreciation recovery period applies to qualified Indian reservation property placed in service before January 1, 2006. Congress extended the special depreciation for two additional years, meaning that qualified Indian reservation property placed in service before January 1, 2008 will qualify. In general, qualified Indian reservation property is property used predominantly in the active conduct of a trade or business within an Indian reservation, which is not used outside the reservation on a regular basis and was not acquired from a related person.

Many tribes have made extensive use of these tax benefits as marketing tools for economic growth. If you have any questions about these provisions, please feel free to contact your assigned Indian Tribal Governments Specialist.

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#### New ITG Tip Income Coordinator

ITG has a full-time Tip Coordinator to assist you with any questions about tip reporting agreements.

Julie Reese, who has performed this duty for the past few years, has retired from the Internal Revenue Service as of the end of March. We are indebted to Julie for the excellent work she did on behalf of the Service and Tribes. She will be sorely missed. We all wish her the best in her retirement.

We are pleased to announce that Suzanne Perry has been selected as a replacement for Julie and will continue to assist tribes in this important area. Suzanne has been an ITG Specialist in Arizona for the past 7 years and brings a wealth of experience in working with tribes, and particularly with the Tip compliance program.

If you are interested in securing a Tip Agreement, have questions concerning your existing agreement, or have received a notice about tip reporting

responsibilities that is unclear, please contact Suzanne at (602) 207-8254 or via e-mail at [Suzanne.V.Perry@irs.gov](mailto:Suzanne.V.Perry@irs.gov).

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## Employer Relief for Misclassified Employees

Most employers make every effort to meet their employment tax obligations. They take the care to review all factors affecting their relationship with their workers and classify their workers as employees or independent contractors accordingly. Occasionally, an employer does make an error and classifies an employee as an independent contractor and has to correct that mistake.

When an employer does incorrectly classify an employee as an independent contractor, the employer is still responsible for paying the employee's federal income tax withholding and the employee's share of Federal Insurance Contributions Act (FICA), even if it was not withheld from the employee's wages. The employer still must pay the employer's share of matching FICA and Federal Unemployment Tax (FUTA). Penalties and interest may also apply.

All of these payments can add up for the employer, but the good news is that the Internal Revenue Service does provide some relief for employers who have made a classification error. Internal Revenue Code Section 3509 provides an opportunity to correct the tax treatment of misclassified employees. IRC Section 3509 provides reduced rates for the employee's share of FICA taxes and for the federal income tax that should have been withheld. Employers are still responsible for the full amount of their share of FICA taxes. IRC Section 3509 does not provide a reduced rate for FUTA.

If the employer does not qualify for the reduced rates under IRC Section 3509, the employer may still be relieved from paying the federal income tax that should have been withheld from the employee. They need to provide evidence that the employee reported the income on their federal income tax return and paid the federal income tax due. The employer who requests this relief must have the employee sign a Form 4669, Employee Wage Statement, stating that the income was reported and the taxes attributable to the income have been paid. The employer must complete and sign Form 4670, Request of Relief from Payment of Income Tax Withholding, and submit it along with any properly executed Form(s) 4669 to request relief from payment of this tax liability. This does not relieve employers of any penalties or additional to tax for failure to withhold the tax.

However, an employer will not owe employment taxes for misclassified workers, if they meet all three of the following requirements described in Section 530 of the Revenue Act of 1978, as amended:

The employer must have had a reasonable basis for not treating the workers as employees. An employer will be treating as having a reasonable basis if the treatment of such workers was in reasonable reliance on any of the following:

Judicial precedent, published rulings or technical advice with respect to the taxpayer.

A past IRS audit in which there was no employment tax assessment attributable to the treatment of the individuals holding positions substantially similar.

A long standing recognized practice of a significant segment of the industry in which such individual was engaged.

The employer (and any predecessor business) must have treated the workers and any similar workers as independent contractors for all applicable periods beginning after December 31, 1977.

The employer must have filed Form 1099-MISC (Miscellaneous Income), for each worker, if such form was required.

If the employer meets the Section 530 requirements, the section provides businesses with relief from federal employment tax. It terminates the business's, not the worker's, employment tax liability (attributable to such workers) for FICA taxes, federal income tax withholding, and FUTA taxes, and any interest or penalties attributable to the liability for employment taxes. (Rev. Proc. 85-18, 1985-1 C.B. 518).

Additional information about worker misclassification and correction is available in Publication 1976, Section 530 Employment Tax Relief Requirements and in Publication 15-A, Employer's Supplemental Tax Guide. Both are available on IRS.gov or contact your local ITG Specialist.

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To add your name or e-mail address to our mailing list, please contact us via e-mail at [Carole.M.Oller@irs.gov](mailto:Carole.M.Oller@irs.gov) or call Carole Oller at (605) 787-5650.

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### Mileage Allowance Increase

The Internal Revenue Service has issued the 2007 optional standard mileage rates used to calculate the deductible costs of operating an automobile for business. This is important to employers, such as tribes, since it is the same rate that can be used for reimbursement to employees who incur mileage for their employer and are under an Accountable Plan.

Beginning January 1, 2007, the standard mileage rates for the use of a car (including vans, pickups or panel trucks) is 48.5 cents per mile. The new rate for business miles compares to a rate of 44.5 cents per mile for 2006. The primary reasons for the higher rate were higher prices for vehicles and fuel during the year ending in October. The standard mileage rate is based on an annual study of the fixed and variable costs of operating an automobile. Runzheimer International, an independent contractor, conducted the study for the IRS. Revenue Procedure 2006-49 contains additional information on these standard mileage rates.

Questions concerning Accountable Plans can be directed to your ITG Specialist.

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#### ITG Area Contacts

##### Great Plains Area

Illinois, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Wyoming

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kim.s.wind@irs.gov

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#### Reporting Abuses/Schemes

We continue to work with tribes and tribal officials to address financial abuses and schemes being promoted in Indian country. Working together can help ensure the integrity of tribal finances and eliminate the threats posed by individuals with schemes that appear “too good to be true” and often are. If you are aware of financial impropriety or of a promoter advocating a scheme that appears highly suspect, contact our ITG Abuse Detection and Prevention Team at: (716) 686-4860 or [tege.itg.schemes@irs.gov](mailto:tege.itg.schemes@irs.gov).

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#### Casino Responsibilities for Title 31

During the past few months many casinos have been involved in training and, in some cases, audits of their Title 31 and Suspicious Activities Reporting programs. Indian Tribal Governments (ITG) had been asked to help train casino personnel for several years now, and we have tried to include this training as part of our service to customers. However, ultimately providing this training is the

responsibility of each casino and we have emphasized that casinos must take on the role of training themselves. Many have asked what they should be doing to accomplish this.

The casino is responsible for training their staff, providing a training officer, and employing a Title 31 Compliance Officer. Often these duties fall to one department or person in the organization. The problem is that each casino needs to have someone available during all times that they are open for business. Floor personnel are often confronted with issues about someone with a transaction involving over \$10,000 cash in or cash out. Who fills out what form? How long do we have and what do we need to get from the person involved? Usually the information must be obtained at the time of the transaction. If there is confusion, there could be a problem that could cost the casino.

Each casino should have a training staff or training coordinator to ensure that each new employee is trained at the start of the job. Each employee should have this training reinforced at least once a year, or when the rules or forms in use are changed. It is suggested that officers, gaming commissioners, and other responsible people are included in this training because the responsibility for penalties and the consequences of incorrect handling of these issues often falls to them.

ITG has been doing a lot of this training, and is therefore a great source of information and help in assisting the training staff at the casino to develop the materials needed. We can help to obtain IRS Gaming Publication 3908, PowerPoint presentations, forms, and assist the training officer prepare a Title 31 lesson plan. Our goal is make each casino self sufficient in training-- and fully capable of implementing all the requirements of the Currency Transaction and Suspicious Activity reporting and recordkeeping regulations. Anyone with questions in this area should contact their Indian Tribal Governments Specialist.  
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Pub 4268

Employment Tax Desk Guide for Indian Tribal Governments

Our on-line Employment Tax Desk Guide was updated in October 2006. You can download this comprehensive guide from a link on our landing page at [www.irs.gov/tribes](http://www.irs.gov/tribes).  
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Self-Assess Your Federal Tax Compliance Risks

Tribal entities can now self-assess their federal tax compliance and work with ITG to address any problems they uncover. Entities electing to participate receive a fillable template from ITG, and are provided with the name of a local ITG

Specialist who will serve as their resource during the process.

Information on the program, as well as an on-line request form, is available through the "Enhancing Federal Tax Compliance" link on the right-hand of the ITG web site landing page at [www.irs.gov/tribes](http://www.irs.gov/tribes), or you can make a inquiry about the program via e-mail to [tege.itg.tefac@irs.gov](mailto:tege.itg.tefac@irs.gov)

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## Customer Satisfaction Survey Results Published

The Office of Indian Tribal Governments recently completed its fourth annual customer survey. The survey gave us feedback from our customers that allow us to measure customer satisfaction with our products and services and determine areas where we need to effect operational changes.

We want to thank everyone who participated. We received input from 184 of the 562 federally recognized Tribes, representing a 33% response rate. This was virtually identical to the prior year survey response rate but is a major improvement from the initial survey completed in 2003. We are pleased that the overall level of satisfaction rose from 72% to 76%, but there were a number of issues surfaced where we are undertaking actions to address concerns raised in the survey. This includes, but is not limited to:

- Developing specific materials for tribal members and tribal employees that explain tax issues that affect them

- Revising work processes to improve responsiveness to tribal inquiries by ITG staff

- Enhancing ITG News to make it a more effective communication tool

In addition to the overall measures, we also looked at satisfaction by geographic area and by common themes within the survey. A more complete report on the survey is posted to our web site at [www.irs.gov/tribes](http://www.irs.gov/tribes). We look forward to input at the ongoing Consultation Listening meetings to further assist in determining improvement opportunities.

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## Telephone Excise Tax Refund for Tribal Governments

The Internal Revenue Service (IRS) stated in IR 2006-82 and Notice 2006-50 that it would stop collecting the excise tax on long-distance telephone service and make refunds of tax paid available. Procedures were established to allow refunds within the statute of limitations to all individuals and organizations that had paid the tax. It was initially indicated that exempt organizations (including tribal governments) would request the refund on Form 990-T and make the calculation of the refund on new Form 8913. However, the IRS has now clarified the procedure for requesting refunds of telephone excise taxes by tribal

government entities.

Since tribal government entities are exempt from all federal telephone excise taxes for their governmental functions under section 4253(i) and section 7871 of the Internal Revenue Code, their refund requests are not covered by the provisions of Notice 2006-50. Any request for refund of telephone excise tax (whether local or long-distance) should be requested on Form 8849 Claim for Refund of Excise Taxes. Tribal government entities should not use Form 990-T to request a refund of telephone tax.

You may request the refund directly from your telephone service provider. If you want to request the refund from the IRS, use the following procedure:

Fill out Form 8849 Schedule 6 with the amount to be refunded. Complete a line for each period requesting a refund.

Annotate the top of Form 8849 in red "Not a Notice 2006-50 Claim." Complete the identifying information at the top, check the box for "Schedule 6," and sign and date the return.

Indicate on the form that the request is filed pursuant to IRC section 4253(i). Attach Schedule 6 to Form 8849 and mail to:

Internal Revenue Service  
Cincinnati, OH 45999-0002

Indicate that the telephone service provider erroneously imposed communications excise tax on the tribal government entity.

Note: Disregard the "Caution" on page 2 of the Form 8849 instructions. This does not apply to 4253(i) refunds to tribal and other governmental and exempt organizations.

A tribal government entity may request a refund for Federal excise taxes on (1) long distance service billed after February 28, 2003 and (2) all local Federal telephone excise taxes for essential government service billed after December 31, 2003. You should request a refund for the entire period on one form; the return should be filed during calendar year 2007. In addition, there are statutory deadlines applicable to requests for calendar year 2004. The refund requests that include Federal excise taxes paid during the calendar quarters shown below must be filed by the due date shown:

2004 Calendar Year Quarter	Refund Request Must Be Filed By
Jan-March 2004	April 30, 2007
April-June 2004	July 31, 2007
July-September 2004	October 31, 2007

October-December 2004

January 31, 2008

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## Federal Tax Calendar for Second Quarter 2007

### April 2007

Wednesday, April 4 - \*make a deposit for 3/28-30

Friday, April 6 - \*make a deposit for 3/31-4/3

Tuesday, April 10 – Employees report March tip income to employers if \$20 or more

Wednesday, April 11 - \*make a deposit for 4/4-4/6

Friday, April 13 - \*make a deposit for 4/7-4/10

Tuesday, April 17 - \*\*make a deposit for March if under the monthly deposit rule

Thursday, April 19 - \*make a deposit for 4/11-4/13

Friday, April 20 - \*make a deposit for 4/14-4/17

Wednesday, April 25 - \*make a deposit for 4/18-4/20

Friday, April 27 - \*make a deposit for 4/21-4/24

### May 2007

Wednesday, May 2 - \*make a deposit for 4/25-4/27

Friday, May 4 - \*make a deposit for 4/28-5/1

Wednesday, May 9 - \*make a deposit for 5/2-5/4

Thursday, May 10 – Employees report April tip income to employers if \$20 or more

Friday, May 11 - \*make a deposit for 5/5-5/8

Tuesday, May 15 - \*\*make a deposit for April if under the monthly deposit rule

Wednesday, May 16 - \*make a deposit for 5/9-5/11

Friday, May 18 - \*make a deposit for 5/12-5/15

Wednesday, May 23 - \*make a deposit for 5/16-5/18

Friday, May 25 - \*make a deposit for 5/19-5/22

Thursday, May 31 - \*make a deposit for 5/23-5/25

### June 2007

Friday, June 1 - \*make a deposit for 5/26-5/29

Wednesday, June 6 - \*make a deposit for 5/30-6/1

Friday, June 8 - \*make a deposit for 6/2-6/5

Monday, June 11 – Employees report May tip income to employers if \$20 or more

Wednesday, June 13 - \*make a deposit for 6/6-6/8

Friday, June 15 - \*make a deposit for 6/9-6/12

\*\*make a deposit for May if under the monthly deposit rule

Wednesday, June 20 - \*make a deposit for 6/13-6/15

Friday, June 22 - \* make a deposit for 6/16-6/19

Wednesday, June 27 - \*make a deposit for 6/20-6/22

Friday, June 29 - \*make a deposit for 6/23-6/26

\* = Make a Payroll Deposit if you are under the semi-weekly deposit rule.

\*\*= Make a Monthly Deposit if you qualify under that rule.

NOTE: Deposits made through EFTPS must be initiated at least one day prior to the due dates listed above in order to be timely.

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#### Return Filing Dates

April 2nd

-If filing electronically, file all Forms W-2, W-2G, 1099, and Form 8027 for 2006. Otherwise the due date was 2/28.

-File Form 730 and pay the tax on applicable wagers accepted during February.

April 30th

-File Form 730 and pay the tax on applicable wagers accepted during March.

-File Form 941 for the 1st quarter of 2006. If all deposits paid on time and in full, file by May 10th.

May 31st

-File Form 730 and pay the tax on applicable wagers accepted during April.

July 2nd

-File Form 730 and pay the tax on applicable wagers accepted during May.

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